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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92043811
Party	Defendant Michael Hwang Michael Hwang 12-25 Robin Lane Bayside, NY 11360
Correspondence Address	Irene E. Hudson FISH & RICHARDSON P.C. 153 EAST 53RD STREET, 52ND FLOOR NEW YORK, NY 10022-4611 UNITED STATES jjohnson@fr.com, hudson@fr.com
Submission	Other Motions/Papers
Filer's Name	Irene E. Hudson
Filer's e-mail	jjohnson@fr.com, hudson@fr.com, tmdocny@fr.com
Signature	/izh/
Date	01/30/2007
Attachments	Registrant's Motion to Reset Registrant's Testimony Period.pdf (6 pages) (169745 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Roger Orozco and Nora Orozco,

Petitioners,

v.

Michael Hwang

Respondent.

Cancellation No.: 92/043,811

Registration No.: 2,846,833

Mark: OAKTREE (& Design)

Date Registered: May 25, 2004

**REGISTRANT'S MOTION TO RESET REGISTRANT'S TESTIMONY PERIOD
AND ALL SUBSEQUENT DATES PURSUANT TO
TBMP §§ 703.01(k), (m), 37 C.F.R. § 2.125(a)**

Respondent/Registrant Michael Hwang ("Registrant" or "Hwang"), by and through his undersigned attorneys, hereby moves to reset Registrant's testimony period and all subsequent testimony and briefing periods pursuant to Sections 703.01(k), (m) of the TBMP, 37 C.F.R. § 2.125(a) based on Petitioners' failure to serve Registrant with copies of the transcripts of the testimony and the documentary exhibits. Registrant hereby requests that his testimony period and all subsequent trial and briefing dates be reset to close thirty (30) days after receipt of the transcripts of the testimony and the documentary exhibits.

It should be noted that Registrant has contemporaneously herewith filed a motion to strike petitioners' trial testimonial depositions of Nora Orozco and Tony Sugden pursuant to TBMP § 533.02, 37 C.F.R. §§ 2.123(c), (e)(3), or in the alternative, for leave to cross-examine Nora Orozco and Tony Sugden outside of petitioners' testimony period based on Petitioners' failure to provide Registrant with due (i.e., reasonable) notice of the depositions.

I. LEGAL STANDARD

Pursuant to TBMP §§ 703.01(k), (m), 37 C.F.R. § 2.125(a),

[o]ne copy of the transcript of testimony taken in accordance with § 2.123, together with copies of documentary exhibits and duplicates or photographs of physical exhibits, shall be served on each adverse party within thirty days after completion of the taking of that testimony. If the transcripts with exhibits is not served on each adverse party within thirty days or within an extension of time for that purpose, any adverse party which was not served may have remedy by way of a motion to the Trademark Trial and Appeal Board to reset such adverse party's testimony and/or briefing periods, as may be appropriate.

II. FACTUAL AND PROCEDURAL BACKGROUND

Petitioners conducted the testimony depositions of Nora Orozco and Tony Sugden on November 27, 2006. On December 27, 2006, Registrant received only portions of the transcripts and documentary exhibits to those depositions. As of the date of this document, the complete testimony depositions of Nora Orozco and Tony Sugden together with exhibits have not been served on Registrant, despite a request therefor by counsel for Registrant.

In particular, on January 29, 2007, counsel for Registrant contacted counsel for Petitioners inquiring about the status of the transcripts and exhibits and requesting that Registrant's testimony period be extended until such time that the transcripts and exhibits were received. On January 30, 2007, counsel for Petitioners denied the request to extend the testimony period and stated that the reason for their failure to provide the complete testimony depositions of Nora Orozco and Tony Sugden together with exhibits is because a protective order had not been executed by the parties. Annexed hereto as Exhibit A is a copy of the January 30, 2007 letter from counsel for Petitioners.

Registrant consents to the use of the standard TTAB Protective Order in this proceeding.

III. ARGUMENT

Since the transcripts of the testimony depositions of Nora Orozco and Tony Sugden with corresponding exhibits have not been served on Registrant as required pursuant to TBMP §§ 703.01(k), (m), 37 C.F.R. § 2.125(a), Registrant requests that its testimony and all subsequent trial and briefing periods be extended by thirty (30) days. In particular, Registrant requests that its testimony period close thirty (30) days after receipt of the complete transcripts of the testimony depositions of Nora Orozco and Tony Sugden and the documentary exhibits.

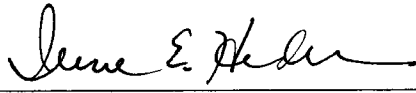
IV. CONCLUSION

For the foregoing reasons, Registrant Hwang respectfully requests that the Board reset the testimony and all subsequent trial and briefing periods as requested herein.

Dated: January 30, 2007
New York, New York

Respectfully submitted,

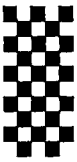
FISH & RICHARDSON P.C.

By: 

John T. Johnson
Irene E. Hudson
Citigroup Center – 52nd Floor
153 East 53rd Street
New York, NY 10022
Tel.: (212) 765-5070
Fax: (212) 258-2291

Attorneys for Respondent
MICHAEL HWANG

EXHIBIT A



KOENIG & ASSOCIATES

ATTORNEYS AT LAW

WRITER'S EMAIL: KURT@INCIP.COM

226 EAST CANON PERDIDO, SUITE M
SANTA BARBARA, CALIFORNIA 93101

TELEPHONE: 805-965-4400

FACSIMILE: 805-564-8262

January 30, 2007

Via Facsimile and copy by Mail: 212-258-2291

Mr. John T. Johnson
Ms. Irene Hudson
Fish & Richardson P.C.
Citigroup Center
153 E. 53rd St., 52nd Floor
New York, NY 10022-4611

Re: Roger Orozco and Nora Orozco v. Michael Hwang
Cancellation No. 92043811

Dear John and Irene:

You had indicated you had not received the confidential portions of the deposition transcript.

As I had noted in my letter submitting this transcript to you, we are unable to send you the same until we have a signed Protective Order. As soon as this is executed we can forward the confidential portions to you. We had discussed using the standard TTAB Protective Order a long while back, but it was never executed.

At this late stage of the proceeding we cannot agree to extend the currently scheduled testimony deadline. Please call me with any questions.

Very truly yours,


Kurt Koenig

KK:mo
Enclosure


RECEIVED

FISH & RICHARDSON P.C.
NEW YORK CITY OFFICE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of RESPONDENT'S MOTION TO RESET REGISTRANT'S TESTIMONY PERIOD AND ALL SUBSEQUENT DATES PURSUANT TO TBMP §§ 703.01(k), (m), 37 C.F.R. § 2.125(a) was sent via first class mail, postage prepaid, on January 30, 2007, to Petitioners' Attorney of Record at the following address:

Kurt Koenig
KOENIG & ASSOCIATES
220 E. Canon Perdido Street, Suite M
Santa Barbara, California 93101



Irene E. Hudson

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